IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 122 OF 2006

1. Shaikh Ali Usman,
   son of Shaikh Mussa
   (since deceased)
   through:
   1(a) Shaikh Aiyaz
   son of Shaikh Ali Usman,

   1(b) Shaikh Wassim,
   son of Shaikh Ali Usman,

2. Mrs. Shaikh A. Usman

   All residing at Tolleacanto,
   Velim, Salcete, Goa. ... Appellants

versus

1. Meher Khan,
   son of Alifan Khan,
   residing at Bhatim,
   Shiroda, Goa.

2. Umakant Tanaji Kolvoikar,

3. Smt. Shamin Umakant
   Kolvekar,

   both residing at
   Health Center Quarters,
   Karai, Shiroda, Goa. ... Respondents

Mr. A. D. Bhobe, Advocate for the Appellants.

Mr. V. A. Lawande, Advocate for the Respondents.

CORAM : N. A. BRITTO, J.

DATE : 1ST FEBRUARY, 2007.

ORAL ORDER

Heard the learned Counsel on behalf of both the parties.

2. This second appeal has been filed by the defendants in R.C.S. No.26/02. The appellate Court has directed the appellants/defendants to refund the earnest money of Rs.78,500/- with interest at the rate of 6%. It can be seen from para 6 of the written statement filed by the appellant/defendants that the defendants had undertaken to refund the said amount of Rs.78,500/- by 22-2-2001. The respondents/plaintiffs had also sought refund of the said earnest money in terms of Section 22(1)(b) of the Specific Relief Act, 1963, by way of amendment which relief has been granted in

their favour. On behalf of the defendants, two substantial questions of law are sought to be raised in this second appeal, namely those which have been formulated in para 11-A and B. The findings of the appellate Court is in the light of the plea taken by the defendants and relief sought by the plaintiffs/respondents. Considering the facts, the plea of the defendants and the relief claimed, in my view, the said questions do not arise as substantial questions of law.

3. There is no merit in this appeal. Consequently, the same is hereby dismissed.

N. A. BRITTO, J.

RD